

Defendants.

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

Case No. _____

1. An action was filed on May 18, 2012 in the Circuit Court of Jefferson County, Alabama entitled *Kristie Kilburn v. Mountainbrook, LLC, et al.* (the “Circuit Court Action”).

2. Defendant Equifax Inc. was served with the Complaint on May 24, 2012.

3. Defendant Mountainbrook, LLC was served with the Complaint on May 24, 2012. Defendant Merion Realty Management, LLC was served with the Complaint on May 24, 2012. Defendant Experian Information Solutions, Inc. was served with the Complaint on May 24, 2012. Copies of the codefendants' consents to the removal are collectively attached hereto as Exhibit A.

4. Defendant Associated Credit and Collection Bureau, Inc. ("Associated"), however, has not been served with process and therefore does not join in this Notice of Removal. *See* June 4, 2012 letter from CT Corporation to Plaintiff's counsel, attached as Exhibit B. That letter was signed by Laura Payne, apparently an agent or employee of CT Corporation. *See* Exhibit B. In her letter, Ms. Payne, who identifies herself as a "CT Rep," states that "[p]rocess in the above referenced case was attempted upon The Corporation Company as the purported agent for service of process for Associated []. Associated . . . is inactive on the records of the State AL [*sic*]. Our services for this entity have also been discontinued for more than five (5) years and, as such, we no longer maintain an active record of this entity. Since we have no address to which to forward this process, we are returning it to you for further disposition." Ms. Payne is also the individual who on May 24, 2012, signed the certified mail "green card" directed to

Associated but sent to CT Corporation. *See* Exhibit C. Comparison of the signatures on the two documents—the June 4 letter and the green card—shows the signatures are identical. Thus, although the state court case action summary purportedly shows service of process on Associated on May 24, 2012, CT Corporation’s letter conclusively establishes service of process on Associated was actually not achieved. As Associated has not yet been served with process, it need not join in this removal. *See Johnson v. Wellborn*, 418 Fed. Appx. 809, 815 (11th Cir. Mar. 17, 2011) (“The requirement that there be unanimity of consent in removal cases with multiple defendants does not require consent of defendants who have not been properly served.”)

5. This Notice of Removal is being filed within the thirty (30) day time period, as required by 28 U.S.C. § 1446(b), of Plaintiff’s initial pleading setting forth the grounds for his action and his claims for relief.

6. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, other pleadings and orders served upon Defendant Equifax Inc. in the Circuit Court Action are attached hereto as Exhibit D.

7. This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1331, in that this is a civil action arising under the Constitution, laws or treaties of the United States, specifically 15 U.S.C. §§ 1681, *et seq.*, otherwise

known as the Fair Credit Reporting Act (“FCRA”) and 15 U.S.C. §§ 1692, *et seq.*, otherwise known as the Fair Debt Collection Practices Act (“FDCPA”), as follows:

(a) Plaintiff’s Complaint, on its face, alleges violations of the FCRA and the FDCPA. *See* Exhibit D, Complaint, Counts Two and Four. In the Complaint, Plaintiff alleges that Equifax failed to comply with the requirements of the FCRA. Equifax is a consumer reporting agency as defined by the FCRA. *See* 15 U.S.C. § 1681a(f). Upon information and belief, Plaintiff is a consumer as defined by the FCRA. *See* 15 U.S.C. § 1681a(c). The FCRA governs the accuracy of information contained in consumers’ credit files such as those of Plaintiff. *See* 15 U.S.C. § 1681.

(b) The FCRA, pursuant to 15 U.S.C. § 1681p, provides that any action alleging a violation of its provisions “may be brought in any appropriate United States District Court without regard to the amount in controversy.”

8. Pursuant to 28 U.S.C. § 1441(a), venue of the removal action is proper in the United States District Court for the Northern District of Alabama, because the county from which the Circuit Court civil action is being removed lies within this District and Division.

9. Defendants Mountainbrook LLC, Merion Realty Management, LLC, and Experian Information Solutions, Inc. have consented to this Notice of Removal without waiving any defenses, including, but not limited to, insufficient service of

process, as evidenced by the Consent to Removal filed concurrently herewith and attached as Exhibit A.

10. Promptly after the filing of this Notice of Removal, Equifax Inc. shall give written notice of the removal to the Plaintiff and to the Clerk of the Court in the Circuit Court Action, as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant Equifax Inc. prays that the above-described action now pending in the Circuit Court of Jefferson County, Alabama, be removed to this Court.

Respectfully submitted this 21st day of June, 2012.

/s/ K. Ann Broussard
Attorney for Defendant Equifax Inc.

OF COUNSEL:

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CERTIFICATE OF SERVICE

This is to certify that I have this day electronically filed a true and correct copy of the foregoing DEFENDANT EQUIFAX INC.'S NOTICE TO REMOVAL with the Clerk of the Court using the ECF system, which will send notification of such filing to the following:

Michael E. Parrish
Parrish & Theus, LLC
1707 29th Court South
PO Box 590067
Birmingham, Alabama 35205

Dated: June 21, 2012

/s/ K. Ann Broussard